



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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DA 04-2838
Released: August 31, 2004

**DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL
OF HARTMAN TELEPHONE EXCHANGES, INC., TO RANDALL J. RAILE AND
KACEY L. RAILE**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 04-320

Comments Due: September 14, 2004

Reply Comments Due: September 21, 2004

On August 12, 2004, the Leo G. Hartman Revocable Trust (the "Hartman Trust"), Randall J. Raile, and Kacey L. Raile ("Transferees") (collectively, the "Applicants"), filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules¹ requesting approval to transfer control of Hartman Telephone Exchanges, Inc. ("Hartman Telephone") from the Hartman Trust to Randall J. Raile and Kacey L. Raile.

Applicants seek streamlined treatment for this transaction on a case-by-case basis, as the transaction is not entitled to presumptive streamlined treatment under section 63.03(b)(2)(iii) of the Commission's rules. Applicants are incumbent independent local exchange carriers (LECs) that have, in combination, fewer than 2% of the nation's subscriber lines installed in the aggregate nationwide, and no overlapping service areas. There is a combined total of 2,100 access lines for the carriers involved in this transaction. However, two of the exchanges at issue in this transaction have adjacent service areas.² Because the Applicants have adjacent service areas, this application is not subject to streamlined treatment.³

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² The service area of one exchange of Hartman Telephone adjoins the Benkelman Telephone Company's exchange.

³ *See* 47 C.F.R. § 63.03(b)(2)(iii); *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, 17 FCC Rcd 5517, 5534 (2002), para. 32.

Hartman Telephone, a Nebraska corporation, is a rural local exchange carrier authorized to provide wireline local exchange service and exchange access service to residential and business customers in the Danbury, Lebanon, and Haigler telephone exchanges in Nebraska.⁴ Hartman Telephone serves approximately 437 access lines in these exchanges. The Hartman Trust owns 100% of the issued and outstanding stock of Hartman Telephone. Leo G. Hartman, a U.S. citizen, is the sole Settlor and controlling Trustee of the Hartman Trust.

Randall J. Raile and Kacey L. Raile currently hold interests in Benkelman Telephone Company and Wauneta Telephone Company. Benkelman Telephone Company is a rural local exchange carrier authorized to provide wireline local exchange services and exchange access service to residential and business customers in the Benkelman telephone exchange in Nebraska.⁵ Benkelman Telephone Co. serves approximately 1,163 access lines in this exchange, which adjoins the Haigler exchange of Hartman Telephone. Wauneta Telephone co. is a rural local exchange carrier authorized to provide wireline local exchange services and exchange access service to residential and business customers in the Wauneta telephone exchange. Wauneta Telephone Co. serves approximately 612 access lines in this exchange. Randall J. Raile, a U.S. citizen, owns 85% of Benkelman Telephone Company and 100% of Wauneta Telephone Company. Kacey L. Raile, a U.S. citizen, owns 8% of Benkelman Telephone Company.

Pursuant to a Stock Purchase Agreement by and between the Hartman Trust and Transferees (the "Agreement"), Transferees will purchase all of the outstanding stock of Hartman Telephone from the Hartman Trust. Under the terms of the Agreement, Randall J. Raile will acquire 51% of Hartman Telephone, and Kacey L. Raile will acquire 49% of Hartman Telephone. Upon consummation of this transaction, Hartman Telephone will continue to provide telecommunication services to its existing customers pursuant to the tariffs it currently has on file, except as they may be revised by appropriate filings as needed to provide new or additional rate plans. Hartman Telephone will maintain Hartman Telephone Exchanges, Inc. as its name and will transact business as BWTelcom.

Applicants assert that the proposed transfer of control is in the public interest, convenience, and necessity because Hartman Telephone will continue to provide the same telecommunications services to its customers following the transaction, and its customers will benefit from the strengthening of the financial status of Hartman Telephone. Applicants further assert that the availability of additional resources to Hartman Telephone will enhance its ability to extend the range of products and services it offers to its customers.

⁴ The Danbury and Haigler exchanges also serve local customers in Kansas. Hartman Telephone is authorized to transact business in the State of Kansas.

⁵ The Benkelman exchange also serves local customers in Kansas.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on or before September 14, 2004** and **reply comments on or before September 21, 2004**.⁶ Unless otherwise notified by the Commission, Applicants are permitted to transfer assets on the 31st day after the date of this notice.⁷ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

⁶ *See* 47 C.F.R. § 63.03(a).

⁷ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, DC 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C212, Washington, D.C. 20554; e-mail: tracey.wilson-parker@fcc.gov;
- (3) Alex Johns, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B418, Washington, D.C. 20554; e-mail: alexis.johns@fcc.gov;
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: william.dever@fcc.gov;
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (6) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Alex Johns at (202) 418-1167.

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